



State of Washington  
Department of Revenue

# Excise Tax Advisory

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Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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CONVERSION DATE: July 1, 1998

**This ETA was cancelled effective May 31, 2005**

## SPECIAL HAZARDOUS SUBSTANCE TAX APPLICATIONS

Issued August 19, 1988

Pursuant to WAC 458-20-252 (Hazardous Substance Tax), Part (14), members of the petroleum industry have requested special rulings to, a) specify the kinds of refined petroleum products which may be exported for use as fuel; b) clarify that export exemption certificates may be taken by refiners and dealers even though all of the product covered by the certificate may not be exported by the buyer; c) explain the use of blanket certificates for tax exempt products; d) provide alternative tax reporting methods in lieu of calculating tax credits upon ingredients of end-petroleum products; e) explain any and all available cost deductions for measuring the tax, including other Washington state taxes; and f) provide the circumstances under which the Department will accept properly documented sales invoices as proofs of previously taxed hazardous substances in lieu of giving certifications.

While items a) and b) above pertain exclusively to the petroleum industry, the remaining items are generally pertinent for all possessors of any hazardous substances.

It is the position of the Department, under chapter 82.22 RCW and Rules 252, that:

a) RCW 82.22 provides that hazardous substance means petroleum products. Petroleum products include plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, asphalt base, residual oil, liquefied or liquefiable gases such as butane, ethane and propane and "every other product" derived from the refining of crude oil but does not include crude oil.

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***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

Please direct comments to:  
Department of Revenue  
Legislation & Policy Division  
P O Box 47467  
Olympia, Washington 98504-7467  
(360) 753-4161 eta@DOR.wa.gov

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Other products derived from refining crude oil, which are generally sold or used as fuel, include but are not limited to:

A. Gasoline

1. Regular Leaded Gasoline
2. Regular Unleaded Gasoline
3. Mid Grade Unleaded Gasoline
4. Premium Unleaded Gasoline
5. Premium Leaded Gasoline
6. Aviation Gasoline
7. Other Gasoline

B. Blending Stocks

1. Cat Cracked Gasoline
2. Light Straight Run Gasoline
3. Reformer Gasoline (Reformate)
4. Alkylation Gasoline (Alkylate)
5. Isomerization Gasoline

C. Distillate Fuels

1. Jet Fuel
2. Kerosene
3. Diesel Fuel
4. Home Heating Oil
5. Number 2 Fuel Oil

D. Volatile Fuels

1. Propane
2. Butane
3. Export Refinery Fuel Gas

E. Residual Fuels

1. Bunker Fuel Oil
2. Number 6 Fuel Oil
3. Marine Fuel Oil
4. Industrial Fuel Oil
5. Cracked Gas Oils
6. Catalytic Cracked Clarified Oil

These listed "other products" used as fuel are entitled to the exemptions of hazardous substance tax when used by the refiner in further processing petroleum, i.e., burned in the refinery plant; and when they are exported for use or sale outside this state as fuel.

Conversely, some "other products" derived from refining crude oil which are unfinished substances, generally not sold or used as fuel, include but are not limited to:

A. Feedstocks

1. Distilling Light Naphtha
2. Distilling Heavy Naphtha
3. Catalytic Reformer Feeds
4. Distillate Hydrotreater Feeds
5. Hydrocracker Feed
6. Catalytic Cracker Feed
7. Vacuum Gas Oils
8. Propylene
9. Butylene
10. Isobutane

These feedstock products are not entitled to the exemptions for use as fuel instate or for export sale or use as fuel.

None of the products listed above, whether used as fuel or not, are taxable merely because they are possessed as intermediate substances during the oil refining process itself. Their possession is taxable only when they are removed from the refining process for some other, nonexempt, use or sale.

Products generally referred to as petroleum derivatives, which contain any of the above listed substances only as an ingredient or component of the further manufactured product are not taxable hazardous substances unless and until so designated by future ruling of the Department of Ecology. Such further manufactured derivative products include such things as WD-40, gasoline additives, automotive parts cleaning agents, and electrical appliance oils, etc.

b) The exemption certificate for export sale or use as fuel outside this state may be given by buyers to refiners and accepted by such refiners even though not all of the products distributed or sold in this state will be exported by the buyer. By giving this certification of export to their sellers, the buyers simply agree to report and directly pay to the state the hazardous substance tax upon any portion of the product which is not exported for use or sale as fuel outside this state. Thus, it is not necessary for the seller to file amended tax returns to account for fuel products upon which export exemption certificates are taken. However, persons who actually report and pay the tax upon fuel products which they actually export from this state may file amended returns to obtain credit for any fuel which has been overtaxed.

c) Certificates covering export fuel products, as well as certificates for any previously taxed hazardous substances, may be given and taken in blanket form rather than giving or taking a certificate to cover each sale or transaction. Example certifications are contained in Rule 252, Parts (4)(c)(iv) and (15). Blanket certificates must be renewed at intervals not to exceed four years.

If the registration number shown on these certificates is cancelled or revoked or a material change occurs in the ownership of a purchaser's business, the blanket certificate must be renewed. If the recipient of the certificate has no reason to know of such cancellation, revocation, or change of ownership, the recipient may continue to rely on the existing certificate until it is four years old.

d) Refiners and processors of petroleum products and manufacturers of other hazardous substances may blend a variety of ingredients and components together in order to produce an end product which is a taxable hazardous substance. Some of these ingredients and components are themselves hazardous substances.

Accounting for the tax paid on the ingredients and components in order to take credits against the tax due upon the possession of the end product sold in this state may be impracticable or burdensome. Thus, in lieu of using the credit mechanism, any manufacturer or refiner who possesses taxable ingredients and components as well as the taxable end product during the same tax reporting period may simply report and pay the tax upon the full value of the taxable end product. Rule 252 already provides that the tax upon hazardous ingredients and components need not be reported and paid until such substances are withdrawn from storage for use. See Part (8)(c).

e) The measure of the hazardous substance tax is the "wholesale value" as determined by the manufacturer's or refiner's selling price. There are no deductions from the tax base for any of the manufacturer's/refiner's costs of doing business whatsoever. Thus, all charges made to the buyer are to be included in the tax measure except for the amount of the hazardous substance tax itself or any other tax which is the direct burden of the buyer rather than the seller. Such other taxes include only the Federal and state taxes on gasoline and motor vehicle fuel, retail sales tax, and use tax collected as agent for the state.

The business and occupation tax, under any classification, may not be deducted from the measure of the hazardous substance tax.

f) Certificates for previously taxed hazardous substances (Part 15 of Rule 252) need not be taken by buyers in instances where their sellers' invoices reflect the pertinent information which will show that the tax has already been paid. Thus, billing invoices which reflect that the hazardous substance tax has been paid and which show the type and quantity of product sold and the name and address of the seller or other person who has previously paid the tax will suffice, instead of taking separate certifications for each hazardous substance transaction.

For related hazardous substance tax applications, refer to ETBs 538 and 539.